

IN THE COURT OF CRIMINAL APPEALS  
OF TEXAS

MARIAN FRASER,  
APPELLANT

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FILED  
COURT OF CRIMINAL APPEALS  
12/1/2017  
DEANA WILLIAMSON, CLERK

V.

NO. PD-0711-17

THE STATE OF TEXAS,  
APPELLEE

**State's Motion For Extension Of Time**  
**To File The State's Brief On The Merits**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Pursuant to Rules 10.5(b) of the Texas Rules of Appellate Procedure, the State of Texas, by and through the Criminal District Attorney Pro Tem / Independent Prosecutor, moves the Court to grant a thirty-day extension of time for filing the State's brief on the merits in this case, thereby creating a new due date of January 2, 2018.

I.

The court below is the 19<sup>th</sup> District Court of McLennan County, Texas. The case was styled *The State of Texas v. Marian Fraser*, cause number 2014-158-C1. A jury convicted appellant of felony murder and assessed her punishment at fifty years' confinement and a \$10,000 fine. The sentence was imposed on May 26, 2015, and the judgment was signed the same day. Appellant is currently confined.

On June 9, 2017, the Court of Appeals for the Seventh District of Texas reversed appellant's conviction and remanded the case for a new trial. *Marian Fraser v. The State of Texas*, 523 S.W.3d 320 (Tex. App.—Amarillo 2017, pet. granted & pet. ref'd). The State's petition for discretionary review was granted on November 1, 2017. The State's brief on the merits is due on December 1, 2017.

## II.

The State requests a thirty-day extension of time to file its brief on the merits, thus creating a new due date of January 2, 2018. The State has not previously requested or been granted an extension of time to file its brief on the merits in this case.

## III.

This extension is not requested for purposes of delay. This extension is necessary to allow the State adequate time to prepare the State's brief on the merits. The State asserts that it cannot complete the State's brief by the current deadline and that good cause exists to extend the time for filing the State's brief as requested herein.

Counsel has begun working on drafting the State's brief in this case, but it is not yet finished and will not be completed by the current deadline. Since November 1, 2017, in addition to working on the State's brief in this case, counsel was out of the office to handle personal matters from November 17, 2017, until November 28, 2017. Additionally, counsel has served as lead counsel for the Texas Department of Family &

Protective Services in *In the Interest of A.L.M., A Child*, Nos. 02-17-00298-CV & 02-17-00300-CV, which is currently pending in the Second Court of Appeals on a joint motion to set aside the trial court's judgment and remand pursuant to a settlement agreement. Counsel also serves as the Chief of Post-Conviction for the Tarrant County Criminal District Attorney's office, directly supervising twelve attorneys. Based on the complexity of the issue presented, the work completed on the State's brief thus far, and counsel's ongoing concurrent responsibilities, an additional thirty days is needed and the State's brief on the merits will be completed by January 2, 2018.

WHEREFORE, PREMISES CONSIDERED, the State respectfully requests that the Court grant the State a thirty-day extension of time for filing the State's brief on the merits, thus creating a new due date of January 2, 2018.

Respectfully submitted,

MELINDA WESTMORELAND  
Criminal District Attorney Pro Tem/  
Independent Prosecutor  
McLennan County, Texas

/s/ Debra Windsor  
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CERTIFICATE OF SERVICE

A true copy of the State's Motion For Extension Of Time To File The State's Brief On The Merits has been e-served on counsel for appellant, E. Alan Bennett at abennett@slmpc.com, and on Stacy M. Soule, State Prosecuting Attorney, at information@spa.texas.gov, on this 1<sup>st</sup> day of December, 2017.

/s/ Debra Windsor  
DEBRA WINDSOR